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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,089	09/10/2003	Anthony S. Salemi	MEG-P-03-001	2725
29013	7590	03/21/2007		
PATENTS+TMS, P.C. 2849 W. ARMITAGE AVE. CHICAGO, IL 60647			EXAMINER CORDRAY, DENNIS R	
			ART UNIT 1731	PAPER NUMBER
			MAIL DATE 03/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/659,089

Applicant(s)

SALEMI ET AL.

Examiner

Dennis Cordray

Art Unit

1731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 15-19, 22 and 29.
Claim(s) rejected: 1-14, 20, 21 and 23-29.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Continuation of 3. NOTE: Claims 31-35 are newly presented. No claims have been cancelled.

Continuation of 13. Other: With respect to Applicant's arguments against the rejection of Claim 29 under 35 USC 112, 1st paragraph, it is apparent from p 17, lines 26-32 of the instant Specification that the paper is designed to move liquids through the channels 7 from the indented microbial paper 10 (i.e.-from the paper surface) and onto the surface (surface on which the paper is placed) to prevent liquid pooling on the indented antimicrobial paper. Since the language used in the Specification does not describe a top surface of the sheet or the antimicrobial surface, the Examiner interprets the surface referenced in the citation to be the surface on which the antimicrobial paper is placed. Furthermore, lines 13-15 of the same page recite that the high points 6 and low points 8 also keep food from slipping from the indented antimicrobial paper 10 onto the surface. Here, too, the surface obviously refers to the surface on which the antimicrobial paper is placed. The rejection is maintained.

With regard to the arguments against Radwanski et al. the reference teaches wipers for hard surfaces, and recites testing the antimicrobial properties using a horizontally positioned sheet of restaurant grade stainless steel (p 8, pars 80-81). The wipers inherently have a length and width and at least two surfaces, which can be called a top and a bottom surface. Furthermore, the wipers used in the testing were 4"x6" sheets. A test grid on the stainless steel sheet was cleaned using the wipers in a circular motion. Since the surface is flat (planar), the sheets inherently conform to the surface shape, thus are flat or planar. The anticipation with regard to the newly added limitations is not addressed at this time.

With regard to the arguments against Foss et al, in some embodiments the multilayered sheet is intended for use in flat form (base forms a plane) for countertops and floors (p 17, lines 46-49). As previously discussed, the sheet inherently has a length and a width, and a top and bottom surface. Anticipation of the newly added limitations is not addressed at this time.

With regard to the arguments against Lindsay et al, in one embodiment the products made from the inventive webs are in planar form, such as a stack of facial tissues (col 31, lines 47-51). Length, width, top and bottom are inherent for reasons previously given. The newly added limitations are not addressed at this time.

With regard to combining Lindsay et al with Hansen et al and Radwanski et al, Lindsay et al teaches that the sheets can have an antimicrobial additive (col 31, lines 30-31). Hansen et al and Radwanski et al merely establish what was known to one of ordinary skill in the art at the time of the invention, that silver zeolite functions as a well known antimicrobial in tissue products. Why would it not have been obvious to use a silver zeolite as a well known antimicrobial agent for the antimicrobial additive in the tissues of Lindsay et al?

The disclosures in a reference must be evaluated for what they would fairly teach one of ordinary skill in the art. In re Snow, 471 F.2d 1400, 176 USPQ 328 (CCPA 1973); In re Boe, 355 F.2d 961, 148 USPQ 507 (CCPA 1966). Specifically, in considering the teachings of a reference, it is proper to take into account not only the specific teachings of the reference, but also the inferences that one skilled in the art would reasonably have been expected to draw from the reference. In re Preda, 401 F.2d 825, 159 USPQ 342 (CCPA 1968); In re Shepard, 319 F.2d 194, 138 USPQ 148 (CCPA 1963). In addition, it is proper to take into consideration not only the teachings of the prior art, but also the level of ordinary skill in the art. In re Luck, 476 F.2d 650, 177 USPQ 523 (CCPA 1973). Specifically, those of ordinary skill in the art are presumed to have some knowledge of the art apart from what is expressly disclosed in the references. In re Jacoby, 309 F.2d 513, 135 USPQ 317 (CCPA 1962).

With respect to the combination of Foss et al and Weder, the argument in the preceeding paragraph applies. The newly added limitations are not addressed at this time.



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